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CURRENT DECISIONS

ADMINISTRATIVE LAW—SUBSTITUTION OF DEFENDANT'S SUCCESSORS IN OFFICE IN EQUITABLE TAX PROCEEDING.—The plaintiff sought an injunction restraining the County Treasurer, County Assessor, County Attorney, and the members of the Board of Supervisors and their successors in office, as taxing authorities of the county, from further wrongfully assessing certain lands or bringing suit to collect taxes already assessed. The bill was dismissed, but before an appeal was taken the officers had retired from office. The appellant asked that the successors in office be substituted as appellees in the case. *Held*, that the succeeding Treasurer, Assessor, and Attorney could not be substituted, but that the succeeding members of the Board of Supervisors, a continuing body, could be substituted. *Irvin v. Webb* (1922) 42 Sup. Ct. 293.

A suit to enjoin a public officer from enforcing a statute is personal and, in the absence of a statutory provision for continuing it against his successor, abates upon his death or retirement from office. *Pullman Co. v. Croom* (1913) 231 U. S. 571, 34 Sup. Ct. 182. By Act of Congress, successors of United States officers who have been sued may be substituted. Act of Feb. 8, 1899 (30 Stat. at L. 822). But no authority exists for the substitution of successors of state officers in such cases. It should be provided for by statute. For a discussion of the right to recover from a commissioner taxes wrongly collected by his predecessor, see COMMENTS (1922) 31 YALE LAW JOURNAL, 537.

CONSTITUTIONAL LAW—FEDERAL TAXING POWER—REGULATION OF CHILD LABOR BY TAXATION.—The plaintiff permitted a boy under fourteen years of age to work in his factory, thus incurring the tax of ten per cent on the net profits of the year as provided by statute. "An Act to provide revenue and for other purposes." Act of February 24, 1919 (40 Stat. at L. 1057) ch. 18, secs. 1200-1207. Having paid the tax under protest, the plaintiff sued for its recovery on the ground that the statute was a regulation of employment of child labor in the states and consequently repugnant to the Tenth Amendment to the Constitution. *Held*, (Clark, J., dissenting) that the statute was unconstitutional. *Bailey v. Drexel Furniture Co.* (May 15, 1922) U. S. Sup. Ct., Oct. Term, 1921, No. 657.

The court says in effect that the act is on its face a regulation of an exclusively state function, and cannot be sustained by being called a tax. "To give such magic to the word 'tax' would be to break down all constitutional limitations of the powers of Congress and completely wipe out the sovereignty of the States." The oleomargarine case and similar authorities, which were supposed to forecast the opposite conclusion, are differentiated, not expressly overruled. For discussions of the instant case in the lower court, see COMMENTS (1922) 31 YALE LAW JOURNAL, 310; NOTES (1922) 35 HARV. L. REV. 859.

DAMAGES—CONDITIONAL SALE—FULL PRICE COLLECTIBLE AS LIQUIDATED DAMAGES.—The defendant sold an automobile truck to the plaintiff on condition that in case of default in payments by the vendee, the vendor could recover possession of the truck and collect all sums remaining unpaid as liquidated damages. The vendee defaulted and returned the truck. He then brought a bill to prevent the enforcement of a mortgage given as security for payment of the balance. *Held*, that the plaintiff was not entitled to the relief sought. *Bedard v. Ransom* (1922, Mass.) 134 N. E. 392.

The use of the term "liquidated damages" or "penalty" in a contract is not